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# Appeals court says attorney can sue Sundquist for libel

## Panel's ruling limits lawmaker immunity

By James W. Brosnan
Washington Bureau

WASHINGTON — A Memphis Area Legal Services attorney can sue Rep. Don Sundquist (R-Tenn.) for libel over the congressman's charges of wrongdoing at the agency, a federal court of appeals ruled yesterday.

The ruling, if upheld, would set new limits on how far congressmen can go outside their lawmaking responsibilities and still be protected from lawsuits.

Sundquist in 1985 accused the agency and specifically lawyer Wayne Chastain of harassing Juvenile Court Judge Kenneth Turner in Judge Turner's efforts to collect child support from fathers. Sundquist complained first in letters to the U.S. attorney general and then the Legal Services Corp. headquarters here. He released the letters to the news media.

That led to an investigation in the Memphis agency and a shakeup in its leadership. Chastain, who remains a Legal Services attorney, sued for libel.

The lawsuit was thrown out by the District Court here, but reinstated yesterday by the 2-1 decision of a panel of the Court of Appeals for the District of Columbia.

Judges James Buckley and Stephen Williams ruled that the "Speech and Debate" clause of the Constitution, which gives congressmen immunity from statements they make, applies only in connection with congressmen's legislative duties. They lose the protection when they try to influence the executive branch, they held.

Judge Abner Mikva disagreed, saying that to narrow congressmen's responsibilities solely to lawmaking would give them less legal protection than "postmen."

Judge Buckley, who wrote the winning opinion, formerly was a Republican senator from New York. Judge Mikva was a Democrat in the House from Illinois.

Steven Ross, the House legal counsel who represented Sundquist, said Judge Buckley's ruling is a "dangerous" and "anti-democratic" opinion. Ross said it could have a chilling effect on congressmen who want to help constituents with their problems at federal agencies.

Previously the U.S. Supreme Court allowed Sen. William Proxmire (D-Wis.) to be sued for libel by a reseacher accused by Proxmire in a press release of pursuing a worthless project. But Ross and Judge Mikva contended that congressmen were protected by other decisions that generally extended immunity to most government employees in performance of their duities.

Ross said yesterday's ruling will be appealed either to the full 11-member Court of Appeals here or directly to the U.S. Supreme Court.